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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/711,325	11/13/2000	Robert Allan Unger	50P4201	6874

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EXAMINER

NALEVANKO, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 02/03/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant No.

09/711,325

Applicant(s)

UNGER, ROBERT ALLAN

Examiner

Christopher R Nalevanko

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 1, 3-9, and 11-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding et al in further view of Bahraini.

Regarding Claim 1, Jerding shows a set-top unit for connection to a cable television system comprising a control tuner (or out-of-band tuner), a programming tuner (or in-band tuner) (page 1 section 0003, page 2 sections 0022-0024), and a processor for controlling the tuners (fig. 2 item 24, page 2 section 0024, 0025). Jerding fails to show that the programming tuner scans frequencies to locate a control channel. Bahraini does show scanning frequencies to find a control channel (page 1 sections 0008-0009). Bahraini shows a tuner that can scan in-band and out-of-band signals to find a control channel to download application codes. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Jerding with the ability to scan for frequencies as in Bahraini in order to allow the set-top box to find the desired communications channel.

Regarding Claim 3, Bahraini shows controlling the tuner to tune frequencies in the frequency band to identify active signals and tuning the tuner to the control channel (page 1 sections 0007-0010).

Regarding Claim 4, Bahraini shows scanning a multitude of channels, including locating alternate channels if several channels fail to work (page 1 sections 0008-0010).

Regarding Claim 5, Jerding shows being able to control multiple tuners with a processor (page 2 sections 0022-0024) and Bahraini shows the ability to scan frequencies for a control channel (page 1 sections 0008-0010). Both Jerding and Bahraini fail to show splitting up the frequency scanning between two tuners. Official Notice is given that it is well known and expected in the art to split up a task between plural, but similar, components to facilitate processing and speed up computational calculations. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Jerding and Bahraini with the ability to scan separate frequencies with two tuners in order to speed up the scanning process in order to find a control channel.

Regarding Claim 6, Jerding shows being able to control multiple tuners with a processor (page 2 sections 0022-0024) and Bahraini shows the ability to scan frequencies for a control channel (page 1 sections 0008-0010). Both Jerding and Bahraini fail to show splitting up the frequency scanning between two tuners. Official Notice is given that it is well known and expected in the art to split up a task between plural, but similar, components to facilitate processing and speed up computational calculations. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Jerding and Bahraini with the ability to scan separate frequencies with two tuners in order to speed up the scanning process in order to find a control channel.

Regarding Claim 7, Jerding shows being able to control multiple tuners with a processor (page 2 sections 0022-0024) and Bahraini shows the ability to scan frequencies for a control channel (page 1 sections 0008-0010). Furthermore, Jerding shows a programming tuner (in-band tuner) and control channel tuner (out-of-band tuner). Both Jerding and Bahraini fail to show splitting up the frequency scanning between tuners and a second programming tuner. Official Notice is given that it is well known and expected in the art to split up a task between plural, but similar, components to facilitate processing and speed up computational calculations. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Jerding and Bahraini with the ability to scan separate frequencies with two tuners in order to speed up the scanning process in order to find a control channel. Also, Official Notice is given that it is well known and expected in the art to use more than one programming tuner, for such purpose as picture-in-picture. Therefore, it would have been obvious to one of ordinary skill in the art to provide another tuner in order to increase the viewing options and functionality, as well as provide another tuner to scan frequencies to speed up the scanning process.

Regarding Claim 8, Bahraini shows the ability to scan multiple frequencies and to determine whether the frequency is the correct control channel by locking onto the channel (page 1 sections 0009-0011). Since the processor controls the tuner, the process is inherently controlled by the tuner.

Regarding Claim 9, the limitations of the Claim have been addressed with regards to Claim 1.

Regarding Claim 11, the limitations of the Claim have been addressed with regards to Claim 3.

Regarding Claim 12, the limitations of the Claim have been addressed with regards to Claim 4.

Regarding Claim 13, the limitations of the Claim have been addressed with regards to Claim 5.

Regarding Claim 14, the limitations of the Claim have been addressed with regards to Claim 6.

Regarding Claim 15, the limitations of the Claim have been addressed with regards to Claim 7.

Regarding Claim 16, the limitations of the Claim have been addressed with regards to Claim 8.

Regarding Claim 17, the limitations of the Claim have been addressed with regards to Claim 1.

Regarding Claim 18, the limitations of the Claim have been addressed with regards to Claim 3.

Regarding Claim 19, the limitations of the Claim have been addressed with regards to Claim 6.

Regarding Claim 20, Both Jerding (page 2 sections 0023-0024) and Bahraini (page 1 sections 0005-0008) show using computer-readable instructions stored in a medium for recording computer-readable instructions in a set-top unit. All further limitations of the claim have been discussed with regards to Claim 1.

Regarding Claim 21, the limitations of the Claim have been addressed with regards to Claim 3.

Regarding Claim 22, the limitations of the Claim have been addressed with regards to Claim 6.

2. Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jerding et al in further view of Bahraini and Chiu et al.

Regarding Claim 2, Bahraini shows storing frequencies of the channel in a memory (page 1 section 009), but both Jerding and Bahraini fail to show that the frequency is the last known. Chiu shows using the last known frequency in the memory (col. 26 lines 25-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Jerding and Bahraini with the ability to use the last known frequency to calibrate the tuner so that the system could potential tune to the correct frequency without the need for scanning other channels.

Regarding Claim 10, the limitations of the Claim have been addressed with regards to Claim 2.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Staron U.S. Patent No. 5,805,230 discloses a method for automatic programming of a tuner and device for implementation of the method.

Roeck et al U.S. Patent No. 6,574,796 discloses a fast and reliable data carrier detection by a cable modem in a cable television plant.

Blevins, Jr. U.S. Patent No. 5,093,921 discloses initialization technique and apparatus for set top converters.

Fries U.S. Patent Application No. US 2002/0035728 discloses an interactive entertainment and information system using television set-top box.

Thompson et al U.S. Patent No. 6,357,046 discloses systems and methods for continually updating and retrieving interactive video information.

Yuen et al U.S. Patent No. 6,583,825 discloses a method and apparatus for transmitting and downloading setup information.

Cautley U.S. Patent No. 5,649,285 discloses transmission of tuning data of broadcasting transmitters to a receiver to facilitate automated set-up of the receiver based on receivable transmitters in a reception area.

Leary U.S. Patent No. 6,425,133 discloses a method for configuring cable television converter terminal using multiple channels and arrangement therefor.

Wagner et al U.S. Patent No. 5,761,602 discloses a hybrid multi-channel data transmission system utilizing a broadcast medium.

Kostreski et al U.S. Patent No. 5,734,589 discloses a digital entertainment terminal with channel mapping.

Bacon et al U.S. Patent No. 5,440,632 discloses a reprogrammable subscriber terminal.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Nalevanko whose telephone number is 703-305-8093. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Christopher Nalevanko
AU 2611
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cn



HAITRAN
PATENT EXAMINER.